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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,803	02/12/2004	Darryl Franklin Clark	14543.1	5836

23556 7590 02/28/2006

KIMBERLY-CLARK WORLDWIDE, INC.  
401 NORTH LAKE STREET  
NEENAH, WI 54956

EXAMINER
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BEFUMO, JENNA LEIGH

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 02/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/777,803	<b>Applicant(s)</b> CLARK ET AL.	
	<b>Examiner</b> Jenna-Leigh Befumo	<b>Art Unit</b> 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2006.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 18-37 is/are pending in the application.
- 4a) Of the above claim(s) 31-37 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. The Amendment submitted on January 10, 2006, has been entered. Claims 1 – 17 have been cancelled. Claims 18, 22, and 23 have been amended. Therefore, the pending claims are 18 – 37. Claims 31 – 37 are withdrawn from consideration as being drawn to a nonelected invention.
2. The 35 USC 102 rejection based on Newkirk et al. (6,417,121) is withdrawn since claim 18 has been amended to include the limitation that the nonwoven web has a hydrohead in excess of 50 mbar, which is not explicitly taught by Newkirk et al. However, a new rejection of these claims based on Newkirk et al. is set forth below.

### ***Claim Rejections - 35 USC § 102/103***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 18 – 25, 27, and 29 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Newkirk et al.

The features of Newkirk et al. have been set forth in the previous Office Action. The limitation of hydrohead, which was previously in claim 23 has been added to claim 18. Therefore, claims 18, 19, 21, 24, 25, 27, and 29 are now rejected with a 35 USC 102 and 35 USC 103 rejection because the hydrohead property is presumed to be inherent, or in the alternative, obvious over Newkirk et al, since Newkirk et al. teaches the claimed structural features of the nonwoven fabric, i.e., a meltblown nonwoven fabric having a multicomponent structure made with the claimed components. Therefore, claims 18 – 25, 27, and 29 are rejected.

***Claim Rejections - 35 USC § 103***

5. Claims 28 and 30 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Newkirk et al. for the reasons of record.
6. Claims 18 – 26 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Krueger et al. (4,729,371) in view of Aishima et al. (3,900,678) for the reasons of record.
7. Claims 27 – 30 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Krueger et al. and Aishima et al. as applied to claim 18 above, and further in view of Newkirk et al. for the reasons of record.

***Response to Arguments***

8. Applicant's arguments filed January 10, 2006 have been fully considered but they are not persuasive. The applicant argues that Newkirk et al. fails to teach the claimed invention because Newkirk et al. does not teach the claimed hydrohead property (response, page 8). However, as set forth in the previous Office Action, the hydrohead property is inherent to the claimed structure which is disclosed by Newkirk et al. The applicant argues that Example 13 in Newkirk et al., discloses fabrics with water barrier properties lower than the claimed hydrohead property (response, pages 8 – 9). First, it is noted that the examples use meltblown layers which are formed from monocomponent fibers and not multicomponent fibers as claimed by the applicant or taught by Newkirk et al. Thus, the samples measured in Example 13 do not qualify as the closest prior art. The applicant must compare the properties of the meltblown fabrics formed from multicomponent fibers taught by Newkirk et al. to the claimed product and not monocomponent meltblown fabric samples.

Second, the applicant compares the test results of the rising water column test preformed by Newkirk et al. to the hydrohead property claimed by the applicant. However, it is not clear that these tests are preformed in the exact same manner such that the results can be directly compared. Instead, Newkirk et al. fails to teach the test method used to calculate the rising water column. Only test results which calculate the hydrohead properties in the exact same testing method as the applicant used to calculate hydrohead can be relied on to show that the prior art does not inherently possess the claimed property. Even though the rising water column test results are being used to measure the barrier properties of the fabric samples it is not clear that the test is performed under the same testing conditions and with the same testing process. Thus, the values of rising water column in Example 13 cannot be relied on to prove that the prior art doesn't possess the claimed hydrohead property. Therefore, the rejection is maintained.

9. The applicant also argues that the rejection based on Krueger et al. and Aishima et al. is improper because the two references are drawn to different size fibers and one of ordinary skill would not combine the two references together (response, pages 9 – 10). However, the rejection is considered to be proper because both references are drawn to multicomponent fibers and materials used to make multicomponent fibers. Specifically, Krueger et al. discloses that bicomponent fibers can be made into meltblown fibers and the polymer components can both be types of polyolefin materials. Further, Aishima et al. discloses generally two different types of polyolefin materials which can be used to make bicomponent fibers. Even though the fibers produced by Aishima et al., are larger than meltblown fibers, there is nothing to suggest that the materials could not be used to make bicomponent meltblown fibers. In fact, Krueger et al. discloses that meltblown fibers can be bicomponent fibers and the both fiber components can be

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polyolefin polymer components. Thus, one of ordinary skill in the art would have reasonable expectation of success that the materials taught by Aishima et al. can be used to make meltblown bicomponent fibers even though the fibers are smaller than the fibers taught by Aishima et al. Further, the improved properties taught by Aishima et al. are due to the fact that the two polyolefin components have such different structure and physical properties. Hence, even though the fiber is much smaller the components of the bi component fiber would still have a different structure and as a result the bicomponent fibers would still have the improved crimping properties regardless of size. Therefore, the rejection is maintained.

### ***Conclusion***

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jenna-Leigh Befumo whose telephone number is (571) 272-1472. The examiner can normally be reached on Monday - Friday (8:00 - 5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Jenna Leigh Befumo', with a stylized flourish at the end.

Jenna-Leigh Befumo  
February 22, 2006